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8 November 2022

Mr George Dedes,
General Manager
City of Ryde Council,
1 Pope Street,
Ryde NSW 2112

Dear Council,

SECTION 4.55 (1A) MODIFICATION TO LDA 2017/0547 | EXTENSION OF CONSTRUCTION HOURS | 11-17 KHARTOUM ROAD & 33-39 TALAVERA ROAD, MACQUARIE PARK

This application has been prepared by Urbis on behalf of Stockland Pty Ltd (**the Applicant**) to the City of Ryde Council (**Council**) seeking an amendment to the development consent conditions for LDA 2017/0547 pursuant to Section 4.55 (1A) of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*.

Specifically, this application seeks to formally modify the approved construction hours prescribed in **Part 2, Condition 8** to include Sundays 8am – 4pm. The proposed extension in construction hours reflects the additional construction hours permitted under the *Environmental Planning and Assessment (COVID-19) Development – Construction Work Days) Order 2020 (Covid-19 Order)* which has now ended. The project did not receive any complaints from local residents or businesses as a result of Sunday construction hours during the Covid-19 Order, despite works including earthworks plant and machinery.

The Order allowed construction sites to operate on Sundays and public holidays which provided some welcome assistance to the construction industry, however abnormal weather patterns and other ongoing challenges associated with the Covid-19 pandemic has meant that construction of Building A is running behind program by approximately 5 months.

A formal extension of construction hours to include Sundays would allow the Contractor to mitigate some of the delays already experienced.

It is considered that the subject site is in a unique position to allow construction to be carried out on Sundays without setting a precedent for other developments to pursue the same. Unique attributes of the development site include:

- It is surrounded by commercial buildings on all sides. These are not classified as sensitive noise receivers and do not typically operate on Sundays.
- The main premises that is operational on Sundays is WiSE Medical which trades on part of the site and is a tenant of the Applicant. WiSE Medical have provided their support for the proposed

modification to the Applicant as they are a key tenant of the new Building A and wish to relocate as soon as practicable.

- The nearest sensitive noise receivers (residential) are of a sufficient distance so as not to be impacted by the proposed construction activities, as demonstrated in the accompanying Noise Assessment.
- The Contractor has committed to a Construction Management Plan and Traffic Construction Management Plan that removes the need for the noisiest work activities to be undertaken on Sundays, and the work zone on Khartoum Road will accordingly not be used.

It is noted that the following activities will **NOT** occur on Sundays:

- Deliveries
- Traffic control
- Rock breaking, jackhammering or the like
- Public domain or landscaping works on Khartoum Road
- Crane operation within Khartoum Road work zone.

The proposed modification relates to the extension of construction hours only. No change is proposed to the design of the approved development or any other physical works. The proposed modification will therefore result in minimal environmental impact beyond those impacts already assessed by City of Ryde Council and approved by the Sydney North Planning Panel. The proposed amendment to construction work hours is considered to result in a development that is substantially the same as originally approved under LDA2017/0547. The proposed modification can therefore be assessed under the provisions of Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

This modification application is supported by the following documents:

- Extended Hours Construction Noise Assessment prepared by EMM (**Appendix A**)
- Construction Pedestrian & Traffic Management Plan prepared by PTC (**Appendix B**)
- Construction Management Plan prepared by Taylor Construction Group (**Appendix C**)
- Extended Working Hours Request prepared by Taylor Construction Group (**Appendix D**)
- Letter of Support prepared by Stockland (**Appendix E**)

1. THE SITE

LDA 2017/0547 relates to land known as 11-17 Khartoum Road & 33-39 Talavera Road, Macquarie Park – legally described as Lot 1 in DP 633221 (refer to Figure 1 for site aerial) and has an area of approximately 30,030m².

Figure 1 Aerial image of site



Source: Nearmap

Specifically, the site is positioned on the corner of Khartoum Road and Talavera Road and has two primary frontages. The site falls from the western corner to the eastern corner by approximately 11m.

The Building A site is located in the western corner of the broader site and has a frontage to Khartoum Road, and a future frontage to New Road 01 to the west.

The site is located approximately 12km north-west of the Sydney CBD within Macquarie Park. Macquarie Park and Macquarie University metro stations are located approximately 750m south-west and north-west of the site respectively, with high frequency bus services running adjacent to the site on both Khartoum Road and Talavera Road.

2. BACKGROUND

The Covid-19 pandemic brought significant disruption to the construction industry, particularly through 2020 and 2021 when density limits were mandated on construction sites as well as other measures to mitigate against the spread of the disease.

The construction of Building A, which commenced in July 2021, has been directly affected by these measures.

In addition, since August 2021, the site has experienced significant inclement weather (85 days as per the inclement weather register) which has further exacerbated the project's construction program delays, estimated to be a total of 5 months.

In response to the pandemic, the Minister for Planning and Public Spaces released the *Environmental Planning and Assessment (COVID-19 Development – Construction Work Days) Order 2020*. This order effectively allowed for construction sites to operate on Sundays and public holidays under new rules to support the construction industry during the COVID-19 pandemic.

The Order ended on 31 March 2022, and therefore construction on site has not taken place outside the approved hours under LDA2017/0547 since that time.

The Applicant is now seeking to formally amend the approved construction hours under Condition 8 in Part 2 of the development consent to include Sundays 8am – 4pm to assist in absorbing some of the program delay and complete the project in a timely manner.

3. PROPOSED MODIFICATION

This Section 4.55(1A) application seeks to modify LDA2017/0547 (as modified) to extend the permitted construction hours on site.

LDA2017/0547 was approved by the Sydney North Planning Panel on 4th December 2019.

Condition 8 in Part 2 of the development consent sets out the approved construction work hours as follows:

8. Hours of work. *Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.*

This modification application seeks to amend Condition 8 as shown in **red text** below:

8. Hours of work. *Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday **and Sunday**. No building activities are to be carried out at any time on ~~a Sunday or~~ a public holiday. **Construction activities on Sundays will exclude deliveries, traffic control, rock breaking and jack hammering, public domain and landscaping works within Khartoum Road frontage, and crane operation within Khartoum Road work zone.***

Should approval be obtained in 2022, works on Sundays will not commence until early 2023 and it is sought to extend Sunday construction hours until practical completion of the building which is currently estimated to be the end of July 2023.

4. SECTION 4.55(1A) ASSESSMENT

Section 4.55(1A) of the EP&A Act provides a mechanism for the modification of development consents granted by the consent authority and sets out the statutory requirements for consideration by the consent authority in the assessment of such applications.

Section 4.55(1A) provides that a consent authority may, subject to and in accordance with the Regulations, modify a development consent if the development as modified meets certain tests. These are addressed below.

4.1. MINIMAL ENVIRONMENTAL IMPACT

The proposed modification seeks to amend Condition 8 in Part 2 of the development consent to formally extend construction hours to include Sundays 8am – 4pm until practical completion of the development, estimated to be July 2023.

A Noise Assessment accompanies the application which demonstrates that all construction activities generally meet the required construction noise goals for works on Sundays. Where minor exceedances have been identified, these are based on worst case scenario noise levels and suitable mitigation and management measures are recommended with the aim of reducing construction noise levels below the relevant noise goals.

Importantly, the accompanying Construction Management Plan has committed to excluding the noisiest activities from being undertaken on Sundays, and the work zone on Khartoum Road will accordingly not be used.

The following activities will **NOT** occur on Sundays:

- Deliveries
- Traffic control
- Rock breaking, jackhammering or the like
- Public domain or landscaping works on Khartoum Road
- Crane operation within Khartoum Road work zone.

The modification does not propose any additional physical changes or works beyond those approved under LDA2017/0547 (as modified).

It is therefore considered that the proposed modification will not result in any additional significant environmental impact beyond those associated with the approved development, particularly in regard to acoustic impacts.

4.2. SUBSTANTIALLY THE SAME DEVELOPMENT

The proposed modification relates to the extension of construction hours for the commercial building under LDA2017/0547. No change is proposed to the approved architectural or landscape plans. The development will therefore remain substantially the same as approved in regard to height, bulk, scale, building envelope, use, traffic generation and landscape treatment.

5. SECTION 4.15 ASSESSMENT

The matters referred to in Section 4.15 of the EP&A Act also need to be considered in the assessment of the proposed modifications. Each of the matters relevant to the proposal is assessed below.

5.1. ENVIRONMENTAL PLANNING INSTRUMENTS

The principal planning policy applicable to the proposed modification to extend construction hours is the *Ryde Local Environmental Plan 2014* (RLEP 2014).

The proposed modification does not alter the approved land use on site, being a commercial development. Therefore, the use of the site remains permissible in the B7 Business Park zone under RLEP 2014.

The proposed modification does not alter the approved height or FSR of the development and remains consistent with all other relevant aspects of the RLEP.

The proposed modification also does not contravene any aspect of the following State Environmental Planning Policies (SEPPs) that the original development was assessed against:

- *State Environmental Planning Policy (Resilience & Hazards) 2021*
- *State Environmental Planning Policy (Transport & Infrastructure) 2021*
- *State Environmental Planning Policy (Biodiversity & Conservation) 2021*

5.2. DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

No draft environmental planning instruments are applicable to the site and proposed modifications.

5.3. DEVELOPMENT CONTROL PLAN

The *Ryde Development Control Plan 2014* (RDCP) contains various detailed controls which seek to manage the built form and environmental impacts of a development.

The proposed modification does not raise any inconsistency with the RDCP 2014 beyond that approved under LDA2017/0547 (as modified).

5.4. PLANNING AGREEMENTS

The proposed modifications do not impact the terms of the Voluntary Planning Agreement (VPA) relating to the site and approved development.

5.5. REGULATIONS

The application has been prepared in accordance with the relevant provisions of the *Environmental Planning and Assessment Regulations 2021*.

5.6. LIKELY IMPACTS OF THE DEVELOPMENT

5.6.1. Acoustic Impacts

This modification application is accompanied by an Extended Hours Construction Noise Assessment prepared by EMM (Appendix A) which has assessed the likely acoustic impacts of the construction activities to be carried out on Sundays.

Construction activities to take place on Sundays are set out in the report and include structural, fit-out and finishing works. It is reiterated that the following activities will not occur on Sundays:

- Deliveries
- Traffic control
- Rock breaking, jackhammering or the like

- Public domain or landscaping works on Khartoum Road
- Crane operation within Khartoum Road work zone.

In regard to deliveries, all site materials required for Sundays will be preloaded during normal construction hours.

The Noise Assessment has found that construction noise levels are likely to meet the construction noise goal at the nearest residence during the proposed construction hours on Sundays.

Surrounding commercial spaces have the potential to be above the recommended noise goals at times during the structural works and fit-out and finishing works. Given that the forecasted noise levels assume equipment operating simultaneously and at the nearest locations to the relevant receivers it is likely that actual construction noise levels would be less than those predicted for the majority of the time. It is further noted that construction works are unlikely to impact commercial uses given they are generally unoccupied on a Sunday. In this regard, out-of-hours works are typically favourable for commercial uses, as it reduces the overall construction period whilst having minimal additional acoustic impact due to works occurring outside periods of general occupation or trade.

Nearby commercial tenancies that operate on Sundays have been identified as being WiSE Medical (17 Khartoum Road) and Verace Pizzeria (7 Khartoum Road).

The Noise Assessment recommends work practices and offset distances which will ensure these tenancies will unlikely be impacted by Sunday construction hours.

Noise impacts during fit-out and finishing works have been assessed to generally meet the Sunday construction noise goal, noting that the assessment assumes worst case scenario noise levels to be occurring external to the building façade with no façade reduction. Noise levels are expected to be substantially lower than the Noise Assessment predictions.

The Noise Assessment sets out site-specific noise mitigation and management measures as well as good practice recommendations with the aim of reducing construction noise levels below the relevant noise goals.

5.6.2. Traffic Impacts

It is considered that the proposed extension to construction hours will have no direct adverse impact on traffic conditions or the surrounding road network for the following reasons:

- The accompanying Construction Pedestrian & Traffic Management Plan (CPTMP) (**Appendix B**) has been updated to confirm construction deliveries, including concrete trucks, will not be accepted on Sundays. Instead, the site will be pre-loaded in the days prior to allow the necessary works to be carried out on Sundays. This will mean the work zone on Khartoum Road will not need to be used on Sundays and therefore the local Sunday traffic network will remain unaffected.
- The CTPMP confirms that the proposed construction hours extension will not cause any increase in truck movements during the major commuter weekday peak times of 8:00am-9:30am and 4:30am-6:00pm, and will continue to be restricted to the number of truck movements agreed with Council in previous versions of the CPTMP.
- Proposed Sunday construction activities will not require traffic control.

5.7. SUITABILITY OF THE SITE

The site is highly suitable for construction works to occur on Sundays without causing unreasonable impacts to surrounding residents or businesses or without setting a precedent for other developments to pursue the same construction hours:

- The site is surrounded by commercial buildings on all sides. These are not classified as sensitive noise receivers and do not typically operate on Sundays.
- The main premises that is operational on Sundays is WiSE Medical which trades on part of the site and is a tenant of the Applicant. WiSE Medical have provided their support for the proposed modification to the Applicant as they are a key tenant of the new Building A and wish to relocate as soon as practicable.
- The nearest sensitive noise receivers (residential) are of a sufficient distance so as not to be impacted by the proposed construction activities., as demonstrated in the accompanying Noise Assessment.
- The Contractor has committed to a Construction Management Plan and Traffic Construction Management Plan that removes the need for the noisiest work activities to be undertaken on Sundays, and the work zone on Khartoum Road will accordingly not be used.
- Construction activities carried out on Sundays during the Covid-19 Order did not attract any complaints from surrounding residents of business owners.

5.8. SUBMISSIONS

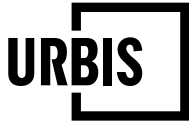
It is acknowledged that any submissions arising from the public notification of this application will be assessed by Council.

5.9. PUBLIC INTEREST

The proposed modification is considered to be in the public interest as it will assist in the realisation of important social and economic outcomes associated with the project in a timely manner, as assessed under LDA2017/0547. These include:

- Creation of approximately 18,300sqm of additional commercial and retail floor space in Building A.
- Contribution to the significant economic benefits afforded by the wider master plan development which will significantly grow employment on the site from 500 jobs to 2,785 ongoing commercial jobs.
- Inclusion of public domain works to improve the amenity and recreation opportunities within the Macquarie Park Corridor.
- Provision of retail uses that will provide activation of the area.
- Reinforce the role of Macquarie Park as a strategic centre providing high quality commercial space for jobs with supporting services and amenity.

The proposed modification will maintain a consistent level of amenity to surrounding development and the public domain, particularly in regard to acoustic and traffic impacts and therefore does not contravene any matters of public interest.



A shortened construction program is also in the public interest.

6. CONCLUSION

This Section 4.55(1A) modification application seeks to amend Condition 8 in Part 2 of the development consent for LDA2017/0547 to formally extend the construction hours to include Sundays 8am-4pm.

This Statement and accompanying supporting documents demonstrate that the proposed modification will not adversely impact the surrounding locality, particularly in regard to acoustic impacts, and will not set a precedent for other development projects in the area.

Importantly, the proposed modification will result in a positive outcome as it will allow the Contractor to mitigate against delays associated with the Covid-19 pandemic and the unprecedented weather events of 2022 and assist in the realisation of important social and economic outcomes associated with the development, as assessed under LDA2017/0547.

Having regard to the above, Ryde Council may modify LDA2017/0547 pursuant to Section 4.55(1A) of the EP&A Act because:

- The proposal is of minimal environmental impact; and
- Represents substantially the same development for which the consent was granted.

Based on the above assessment, it is recommended that Council approve this modification application.

Should you wish to discuss this application further, please contact the undersigned.

Kind regards,

A handwritten signature in black ink, appearing to read "S Noone". The signature is fluid and cursive, with the first letter "S" being large and stylized.

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